
NO. 24352

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

JOANN A. WAI, Claimant-Appellee,

vs.

HAWAIIAN AIRLINES, INC., and AMERICAN MOTORISTS INSURANCE
COMPANY, Adjusted by KEMPER NATIONAL INSURANCE CO.,
Employer/Insurance Carrier-Appellants.
(CASE NO. AB 2000-308 (2-99-08764))

KRISTIN BUSH, Claimant-Appellee,

vs.

HAWAIIAN AIRLINES, INC., and AMERICAN MOTORISTS INSURANCE
COMPANY, Adjusted by KEMPER NATIONAL INSURANCE CO.,
Employer/Insurance Carrier-Appellants.
(CASE NO. AB 2000-387 (2-99-17735))

LOREN S. TRIPOLI, Claimant-Appellee,

vs.

HAWAIIAN AIRLINES, INC., and AMERICAN MOTORISTS INSURANCE
COMPANY, Adjusted by KEMPER NATIONAL INSURANCE CO.,
Employer/Insurance Carrier-Appellants.
(CASE NO. AB 2000-413 (2-99-07722))

ANNIE BORRELLI, Claimant-Appellee,

vs.

HAWAIIAN AIRLINES, INC., and AMERICAN MOTORISTS INSURANCE
COMPANY, Adjusted by KEMPER NATIONAL INSURANCE CO.,
Employer/Insurance Carrier-Appellants.
(CASE NO. AB 2000-420 (2-97-01557))

***** NOT FOR PUBLICATION *****

CYNTHIA M. SILVA, Claimant-Appellee,

vs.

HAWAIIAN AIRLINES, INC., and AMERICAN MOTORISTS INSURANCE
COMPANY, Adjusted by KEMPER NATIONAL INSURANCE CO.,
Employer/Insurance Carrier-Appellants.
(CASE NO. AB 2000-439 (2-98-12741))

SHARON S. ASATO, Claimant-Appellee,

vs.

HAWAIIAN AIRLINES, INC., and AMERICAN MOTORISTS INSURANCE
COMPANY, Adjusted by KEMPER NATIONAL INSURANCE CO.,
Employer/Insurance Carrier-Appellants.
(CASE NO. AB 2000-438 (2-00-00912))

KRIS K. CAMARA, Claimant-Appellee,

vs.

HAWAIIAN AIRLINES, INC., and AMERICAN MOTORISTS INSURANCE
COMPANY, Adjusted by KEMPER NATIONAL INSURANCE CO.,
Employer/Insurance Carrier-Appellants.
(CASE NO. AB 2000-486 (2-98-10851))

STEPHEN HUNT, Claimant-Appellee,

vs.

HAWAIIAN AIRLINES, INC., and AMERICAN MOTORISTS INSURANCE
COMPANY, Adjusted by KEMPER NATIONAL INSURANCE CO.,
Employer/Insurance Carrier-Appellants.
(CASE NO. AB 2000-476 (2-99-18762))

APPEAL FROM THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD
(CASE NOS. AB 2000-308, AB 2000-387, AB 2000-413, AB 2000-420,
AB 2000-439, AB 2000-438, AB 2000-486, and AB 2000-476)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy JJ.)

Employer/Insurance Carrier-appellant Hawaiian Airlines, Inc. and American Motorists Insurance Company, adjusted by Kemper Insurance Companies [hereinafter, collectively "Employer/Insurance Carrier"] appeals from the May 11, 2001 order of the Department of Labor and Industrial Relations Appeals Board (LIRAB) granting Claimant-appellees' Joann Wai, et al., (hereinafter, collectively "Claimants'") motion for summary judgment and denying Employer/Insurance-Carrier's motion for summary judgment. The sole issue in this case is whether the Claimants are full-time employees for the purposes of Hawai'i Revised Statutes (HRS) § 386-51 (Supp. 1995). The Employer/Insurance Carrier contends that the LIRAB erred by: (1) concluding that the legislature did not intend to define employees who work less than thirty-five hours per week as part-time employees for the purposes of HRS § 386-51; (2) concluding that Claimants are full-time employees for the purposes of HRS § 386-51; and (3) concluding that HRS § 386-51 mandates Claimants' average weekly wages (AWW) be computed and determined by taking Claimants' hourly rate of pay multiplied by thirty-five hours.

Upon carefully reviewing the record and the briefs submitted, we hold as follows: (1) HRS § 386-51 does not define

employees who work less than thirty-five hours per week as part-time employees for the purposes of this statute; (2) the LIRAB did not abuse its discretion by finding that Claimants were full-time employees, see HRS § 386-51; and (3) HRS § 386-51 required that Claimants' AWW be calculated by multiplying their hourly rate by thirty-five once the DLIR determined that they were full-time employees. Therefore,

IT IS HEREBY ORDERED that the LIRAB's May 11, 2001 order is affirmed.

DATED: Honolulu, Hawai'i, July 23, 2004.

On the briefs:

Robert C. Kessner,
and Sylvia K. Higashi
(of Kessner Duca Umebayashi
Bain & Matsunaga) for
employer-appellant
Hawaiian Airlines, Inc. and
insurance carrier-appellant
American Motorists Insurance
Company, adjusted by Kemper
National Insurance Co.

Daniel E. Chur
(of Robinson & Chur)
for claimants-appellees
Joanne A. Wai, Kristin
Bush, Loren S. Tripoli,
Annie Borrelli, Cynthia Silva,
Sharon Asato, Kris Camara,
and Stephen Hunt